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PATENT
Docket No. 144009.00200

2005 AUG 17 PM 10:00 AM

PATENT

New Attorney Docket No. 144009.00200
Old Attorney Docket No. 54436-20002.00

US PATENT & TRADEMARK OFFICE IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventors: William A. Knaus et al.)
) Group Art Unit: 3626
)
Appl. No.: 09/822,261)
) Examiner: Najarian, Lena
)
Filing Date: April 02, 2001)

Title: BROADBAND COMPUTER-BASED NETWORKED SYSTEMS FOR
CONTROL AND MANAGEMENT OF MEDICAL RECORDS

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450

MAIL STOP: PETITION

Sir:

PETITION UNDER 37 C.F.R. § 1.28 FOR REFUNDS WHEN SMALL ENTITY STATUS
IS LATER ESTABLISHED; HOW ERRORS IN SMALL ENTITY STATUS ARE
EXCUSED

Applicant for the above-captioned U.S. Patent Application is a small entity. An appropriate small entity declaration was filed with the United States Patent and Trademark Office ("USPTO") and all fees charged have been at the small entity rate. Applicant filed a Request for Continued Examination (RCE) on May 12, 2005 with a request for the RCE fee to be charged to the undersigned's deposit account. On receipt of the monthly statement of the account, it was noticed that the USPTO had charged applicant the RCE fee as a large entity. This was an error and applicant respectfully requests a refund.

A copy of the Patent Application Fee Determination Record and the four previous fee worksheets obtained from the United States Patent and Trademark Office Public PAIR Access

Site for this application are enclosed. As can be seen, all previous fee worksheets reflect fees charged for a small entity. Only the last fee worksheet for the RCE charged the applicant as a large entity on May 24, 2005.

Remarks Regarding Establishment of Small Entity Status

Pursuant to 37 CFR § 1.27(c)(1) and (2), applicant established small entity status by a written and signed assertion of entitlement to small entity status in the original Utility Patent Application Transmittal. The intent to assert small entity status was clearly indicated and claimed as a Small Business Concern in compliance with the assertion requirement. Accordingly, it was signed by the attorney of record at the time of filing.

Additionally, under § 1.27 (c)(3) *Assertion by payment of the small entity basic filing or basic national fee*. The payment, by any party, of the exact amount of one of the small entity basic filing fees set forth in §§ 1.16(a), 1.16(b), 1.16(c), 1.16(d), 1.16(e), or the small entity basic national fee set forth in § 1.492(a), will be treated as a written assertion of entitlement to small entity status even if the type of basic filing or basic national fee is inadvertently selected in error.

All four previous fee worksheets were paid as a small entity.

Remarks Regarding Refund of Difference for Fees Paid in Regard to RCE

Applicant's small entity status was properly established at time of original filing according to 37 CFR § 1.27(c). The United States Patent and Trademark Office acknowledged such establishment by charging applicant as a small entity on four fee worksheets as such. Applicant requests that the large entity fees charged with the filing of the Request for Continued Examination be refunded to Deposit Account No. 50-1682, referencing Attorney Docket No. 144009.00200. Copies of each of the five Patent Application Fee Determination Record are enclosed. Applicant was charged \$795 for the RCE as a large entity instead of \$395 as a small entity on May 24, 2005. This is a timely, written request within three months of payment date in compliance with 37 CFR § 1.28 (b) (1). Applicant is entitled to the difference of \$395.

Appln. No. 09/822,261

Attorney Docket No.: 144009.00200

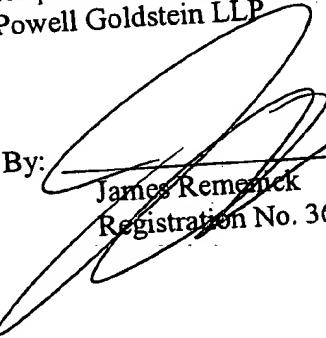
Conclusion

Applicant respectfully requests that the \$395 difference mistakenly charged as a large entity rather than a small entity be refunded to the **Deposit Account No. 50-1682**, referencing Attorney Docket No. 144009.00200.

No fee is believed to be due with filing of this Petition, in part, because Applicant is requesting correction of a mistake by the USPTO. However, if there are any other fees due with the filing of this Petition, Applicant respectfully requests that any and all such fees due be charged to **Deposit Account No. 50-1682**, referencing Attorney Docket No. 144009.00200.

Respectfully submitted,
Powell Goldstein LLP

By:


James Remenick
Registration No. 36,902

Date: August 10, 2005

Enclosed: Fee Worksheets

Customer No. 51362
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PATENT APPLICATION FEE DETERMINATION RECORD
Substitute for Form PTO-875Application or Docket Number
097822261

CLAIMS AS FILED - PART I		
(Column 1)		(Column 2)
FOR	NUMBER FILED	NUMBER EXTRA
BASIC FEE (37 CFR 1.16(a))		
TOTAL CLAIMS (37 CFR 1.16(c))	minus 20 =	
INDEPENDENT CLAIMS (37 CFR 1.16(b))	minus 3 =	
MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(d))		
		TOTAL

If the difference in column 1 is less than zero, enter "0" in column 2.

OTHER THAN SMALL ENTITY		
OR	RATE	FEES
OR	\$ _____	
OR	X \$ _____ =	
OR	X \$ _____ =	
OR	+ \$ _____ =	
OR	TOTAL	

CLAIMS AS AMENDED - PART II			
(Column 1)		(Column 2)	(Column 3)
AMENDMENT A	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA
Total (37 CFR 1.16(d))	59	Minus "	55
Independent (37 CFR 1.16(b))	4	Minus ...	4
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(d))			
		TOTAL ADD'L FEE	

SMALL ENTITY		
OR	RATE	ADDITIONAL FEE
OR	X \$ 50.00 =	
OR	X \$ 20.00 =	
OR	+ \$ _____ =	
OR	TOTAL ADD'L FEE	

AMENDMENT B			
(Column 1)		(Column 2)	(Column 3)
AMENDMENT B	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA
Total (37 CFR 1.16(d))	Minus "	"	=
Independent (37 CFR 1.16(b))	Minus	=
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(d))			
		TOTAL ADD'L FEE	

ADDITIONAL FEE		
OR	RATE	ADDITIONAL FEE
OR	X \$ _____ =	
OR	X \$ _____ =	
OR	+ \$ _____ =	
OR	TOTAL ADD'L FEE	

AMENDMENT C			
(Column 1)		(Column 2)	(Column 3)
AMENDMENT C	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA
Total (37 CFR 1.16(c))	Minus "	"	=
Independent (37 CFR 1.16(b))	Minus	=
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(d))			
		TOTAL ADD'L FEE	

ADDITIONAL FEE		
OR	RATE	ADDITIONAL FEE
OR	X \$ _____ =	
OR	X \$ _____ =	
OR	+ \$ _____ =	
OR	TOTAL ADD'L FEE	

- * If the entry in column 1 is less than the entry in column 2, write "0" in column 3.
- ** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20".

*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3".

The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.

This collection of information is required by 37 CFR 1.16. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PATENT APPLICATION FEE DETERMINATION RECORD
Effective October 1, 2000

Application or Docket Number

09/822,261

CLAIMS AS FILED - PART I

(Column 1) (Column 2)

TOTAL CLAIMS	59	
FOR	NUMBER FILED	NUMBER EXTRA
TOTAL CHARGEABLE CLAIMS	59 minus 20=	39
INDEPENDENT CLAIMS	6 minus 3 =	3
MULTIPLE DEPENDENT CLAIM PRESENT		<input type="checkbox"/>

SMALL ENTITY
TYPE OR OTHER THAN
SMALL ENTITY

RATE	FEES	RATE	FEES
BASIC FEE	355.00	OR BASIC FEE	710.00
X\$ 9=	351	OR X\$18=	
X40=	120	OR X80=	
+135=		OR +270=	
TOTAL	826	OR TOTAL	

* If the difference in column 1 is less than zero, enter "0" in column 2

CLAIMS AS AMENDED - PART II

(Column 1) (Column 2) (Column 3)

AMENDMENT A	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA
Total	59 Minus	59	= 0
Independent	6 Minus	6	= 0
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM			

SMALL ENTITY OR OTHER THAN
SMALL ENTITY

RATE	ADDITIONAL FEE	RATE	ADDITIONAL FEE
X\$ 9=		OR X\$18=	
X40=		OR X80=	
+135=		OR +270=	
TOTAL ADDT. FEE		OR TOTAL ADDT. FEE	

225.05

AMENDMENT B	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA
Total	59 Minus	59	= 0
Independent	11 Minus	6	= 0
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM			

RATE	ADDITIONAL FEE	RATE	ADDITIONAL FEE
X\$ 9=		OR X\$18=	
X40=		OR X80=	
+135=		OR +270=	
TOTAL ADDT. FEE		OR TOTAL ADDT. FEE	

AMENDMENT C	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA
Total	Minus	0	= 0
Independent	Minus	0	= 0
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM			

RATE	ADDITIONAL FEE	RATE	ADDITIONAL FEE
X\$ 9=		OR X\$18=	
X40=		OR X80=	
+135=		OR +270=	
TOTAL ADDT. FEE		OR TOTAL ADDT. FEE	

* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.

* If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20."

*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3."

The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.

PATENT APPLICATION FEE DETERMINATION RECORD
Effective October 1, 2000

Application or Docket Number

03/672-0003

CLAIMS AS FILED - PART I

(Column 1) (Column 2)

TOTAL CLAIMS	59	
FOR	NUMBER FILED	NUMBER EXTRA
TOTAL CHARGEABLE CLAIMS	59 minus 20 =	39
INDEPENDENT CLAIMS	6 minus 3 =	3
MULTIPLE DEPENDENT CLAIM PRESENT		<input type="checkbox"/>

* If the difference in column 1 is less than zero, enter "0" in column 2

SMALL ENTITY
TYPE OR OTHER THAN
SMALL ENTITY

RATE	FEES	RATE	FEES
BASIC FEE	355.00	OR BASIC FEE	710.00
X\$ 9=	351	OR X\$18=	
X40=	120	OR X80=	
+135=		OR +270=	
TOTAL	826	OR TOTAL	

CLAIMS AS AMENDED - PART II

(Column 1) (Column 2) (Column 3)

AMENDMENT A	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA
	Total	Minus	.. 59	= —
Independent		Minus	... 6	= —
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM				<input type="checkbox"/>

SMALL ENTITY OR OTHER THAN
SMALL ENTITY

RATE	ADDI- TIONAL FEE	RATE	ADDI- TIONAL FEE
X\$ 9=		OR X\$18=	
X40=		OR X80=	
+135=		OR +270=	
TOTAL ADDIT. FEE		OR TOTAL ADDIT. FEE	

AMENDMENT B	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA
	Total	Minus	..	=
Independent		Minus	...	=
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM				<input type="checkbox"/>

RATE	ADDI- TIONAL FEE	RATE	ADDI- TIONAL FEE
X\$ 9=		OR X\$18=	
X40=		OR X80=	
+135=		OR +270=	
TOTAL ADDIT. FEE		OR TOTAL ADDIT. FEE	

AMENDMENT C	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA
	Total	Minus	..	=
Independent		Minus	...	=
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM				<input type="checkbox"/>

RATE	ADDI- TIONAL FEE	RATE	ADDI- TIONAL FEE
X\$ 9=		OR X\$18=	
X40=		OR X80=	
+135=		OR +270=	
TOTAL ADDIT. FEE		OR TOTAL ADDIT. FEE	

* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.

** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20."

*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3."

The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.

PATENT APPLICATION FEE DETERMINATION RECORD
Effective October 1, 2000

Application or Docket Number

031672-0005-

CLAIMS AS FILED - PART I

(Column 1) (Column 2)

TOTAL CLAIMS	59	
FOR	NUMBER FILED	NUMBER EXTRA
TOTAL CHARGEABLE CLAIMS	59 minus 20 =	39
INDEPENDENT CLAIMS	6 minus 3 =	3
MULTIPLE DEPENDENT CLAIM PRESENT		<input type="checkbox"/>

SMALL ENTITY
TYPE OR OTHER THAN
SMALL ENTITY

RATE	FEES	RATE	FEES
BASIC FEE	355.00	OR BASIC FEE	710.00
X\$ 9=	351	OR X\$18=	
X40=	120	OR X80=	
+135=		OR +270=	
TOTAL	826	OR TOTAL	

* If the difference in column 1 is less than zero, enter "0" in column 2

CLAIMS AS AMENDED - PART II

(Column 1) (Column 2) (Column 3)

AMENDMENT A	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA
	Total	Minus	..	=
Independent	•	Minus	***	=
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM			<input type="checkbox"/>	

SMALL ENTITY OR OTHER THAN
SMALL ENTITY

RATE	ADDI- TIONAL FEE	RATE	ADDI- TIONAL FEE
X\$ 9=		OR X\$18=	
X40=		OR X80=	
+135=		OR +270=	
TOTAL ADDIT. FEE		OR TOTAL ADDIT. FEE	

AMENDMENT B	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA
	Total	Minus	..	=
Independent	•	Minus	***	=
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM			<input type="checkbox"/>	

RATE	ADDI- TIONAL FEE	RATE	ADDI- TIONAL FEE
X\$ 9=		OR X\$18=	
X40=		OR X80=	
+135=		OR +270=	
TOTAL ADDIT. FEE		OR TOTAL ADDIT. FEE	

AMENDMENT C	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA
	Total	Minus	..	=
Independent	•	Minus	***	=
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM			<input type="checkbox"/>	

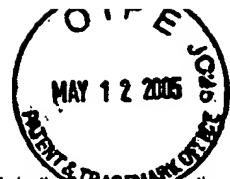
RATE	ADDI- TIONAL FEE	RATE	ADDI- TIONAL FEE
X\$ 9=		OR X\$18=	
X40=		OR X80=	
+135=		OR +270=	
TOTAL ADDIT. FEE		OR TOTAL ADDIT. FEE	

* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.

** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20."

*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3."

The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.



PTO/SB/30 (04-05)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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Rc/KA
Jew

MAY 12 2005

**Request
for
Continued Examination (RCE)
Transmittal**

Address to:
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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Application Number	09/822,261
Filing Date	April 2, 2001
First Named Inventor	William A. KNAUS et al.
Art Unit	2137
Examiner Name	Michael J. Pyzocha
Attorney Docket Number	144009.00200

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application. Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. **Submission required under 37 CFR 1.114** Note: if the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

a. Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

i. Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____

ii. Other _____

b. Enclosed

i. Amendment/Reply

ii. Affidavit(s)/ Declaration(s)

iii. Information Disclosure Statement (IDS)

iv. Other _____

2. **Miscellaneous**

a. Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)

b. Other _____

3. **Fees** The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.

a. The Director is hereby authorized to charge the following fees, any underpayment of fees, or credit any overpayments, to Deposit Account No. 50-1682. I have enclosed a duplicate copy of this sheet.

i. RCE fee required under 37 CFR 1.17(e)

ii. Extension of time fee (37 CFR 1.136 and 1.17)

iii. Other _____

b. Check in the amount of \$ _____ enclosed

c. Payment by credit card (Form PTO-2038 enclosed)

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Signature		Date	May 12, 2005
Name (Print/Type)	James Romenick	Registration No.	36,902

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Signature		Date
Name (Print/Type)		

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete. Including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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09/28/2005 SDIRETA1 00000056 501682 09822261

01 FC:1001 395.00 DA

05/13/2005 JADD01 00000072 501682 09822261
01 FC:1001 790.00 DA
Adjustment Date: 09/28/2005 SDIRETA1 00000056 501682 09822261
05/13/2005 JADD01 00000072 501682 09822261
01 FC:1001 790.00 DA
EE:1001

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